

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN LARRY JENT**, on March 11, 2005 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Larry Jent, Chairman (D)
Rep. Dee L. Brown, Vice Chairman (R)
Rep. Joan Andersen (R)
Rep. Mary Caferro (D)
Rep. Sue Dickenson (D)
Rep. Emelie Eaton (D)
Rep. Robin Hamilton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. Hal Jacobson (D)
Rep. William J. Jones (R)
Rep. Gary MacLaren (R)
Rep. Bruce Malcolm (R)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)

Members Excused: Rep. Veronica Small-Eastman, Vice Chairman (D)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Marion Mood, Committee Secretary
Transcribed by Lindsey Grovom

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 149, 3/3/2005; HB 633, 3/3/2005
Executive Action: SB 24; SB 98; SB 180

HEARING ON SB 149**Opening Statement by Sponsor:**

SEN. JESSE LASLOVICH (D), SD 43, opened the hearing on SB 149, State service contracts to be performed by citizen, legal alien, or visa holder. He said that the whole point of outsourcing was to reduce the amount of money that was being spent. He thought that the citizens of Montana would want their tax-payer dollars to go to their fellow citizens or if not, then the citizens of the country. **SEN. LASLOVICH** saw the bill as an opportunity to keep Montana jobs in the state.

{Tape: 1; Side: A; Approx. Time Counter: 12 - 21}

Proponents' Testimony: None.

Opponents' Testimony:

Marvin Eicholtz, Department of Administration, provided written testimony explaining his opposition to the bill. He also handed out a list of American companies that are involved in offshore operations.

[EXHIBIT\(sth54a01\)](#)

[EXHIBIT\(sth54a02\)](#)

Dana Glatz, President, WESCO, pointed out that one of the most critical things driving the issue of outsourcing was demographics. He explained that around the state there is declining enrollment in the school systems. The labor force of the United States (U.S.) was shrinking and there had to be a way to make up for that in the labor force. One thing he didn't see in the bill was anything addressing the cost of the State of Montana to the tax payer for implementing the kind of process proposed in the bill.

{Tape: 1; Side: A; Approx. Time Counter: 21 - 30}

Proponents' Testimony:

Don Judge, Teamsters Local 190, said that all the bill did was require state agencies to take a look at what they were doing and who they're doing it with. If they can't find a way to do that work in this country, then they would not have to worry about it. This bill would allow the people to get a handle on what the state was doing with its jobs.

Informational Testimony: None.

Questions from Committee Members and Responses:

Rep. Brown asked Anna Marie Moe, Department of Commerce, how the amendment introduced by the Sponsor would affect Travel Montana.

Ms. Moe replied that currently, Travel Montana contracted with an organization called Rocky Mountain International (RMI) to promote the Rocky Mountain region overseas and internationally.

Currently, the contract for that is \$194,000 a year and if they were to try to do all those services individually, it would be over \$1.1 million. **REP. BROWN** asked for Anna Marie Moe to expound on the Taiwan office. **Ms. Moe** replied that in addition to RMI, there were also specific offices promoting Montana only in Taiwan and Kumamoto. These both deal with tourism and allowing Montana companies to work in those countries.

REP. BROWN asked **Ms. Moe** how the bill would affect tourism entities that use Canadian printing companies. **Ms. Moe** answered that the publications would probably have to use a U.S. company.

REP. BROWN wondered what that would mean to the total cost of the publications. **Ms. Moe** replied that the prices would go up.

{Tape: 1; Side: B; Approx. Time Counter: 1 - 14}

CHAIRMAN JENT asked if, in addition to the federal statutes, the Foreign Commerce Clause had been looked at. **SEN. LASLOVICH**

replied that when he read the bill, he found all the laws of the U.S., but he had no problem with **CHAIRMAN JENT** clarifying that.

CHAIRMAN JENT then asked if under the Foreign Commerce Clause, the State could do anything about regulating outsourcing in any manner. **SEN. LASLOVICH** replied that he thought it could be done and that it was entirely appropriate. **CHAIRMAN JENT** asked if the Sponsor had done any independent research on the whole idea of what the parameters were. **SEN. LASLOVICH** replied that he had but not with regards to the Foreign Commerce Clause.

REP. JONES asked Marvin Eicholtz how the bill would be enforced if the Department of Administration did not cooperate. **Mr.**

Eicholtz replied that he couldn't imagine that ever happening.

REP. DICKENSON asked Marvin Eicholtz why he was still opposed to the bill seeing that all of the amendments proposed by the Department of Transportation had been added to the bill. **Mr.**

Eicholtz answered that they did have another amendment that would further clarify the purpose of the bill.

REP. DICKENSON questioned the Sponsor as to whether there could be some sort of a credit in the bidding process down the road to those companies run by U.S. citizens. **SEN. LASLOVICH** remarked that was a great suggestion.

REP. CAFERRO referred Anna Marie Moe to Page 2, Line 27 of the bill and asked her why she felt her concerns were not being covered in that portion of the bill. **Ms. Moe** answered that they felt the cleanest way for them to deal with the bill was to seek an exemption.

REP. CAFERRO asked Dana Glatz if WESCO was a State agency. **Mr. Glatz** replied that it was not. **REP. CAFERRO** followed up by asking if WESCO was a State vendor. **Mr. Glatz** said that was correct and they had done considerable work with the State of Montana. **REP. CAFERRO** referred back to Mr. Glatz's mention of a job he was starting in Saudi Arabia and wondered if that was a State contract. **Mr. Glatz** replied that the work in Saudi Arabia was a contract relative to building software for them to keep track of their transportation systems. **REP. CAFERRO** asked Mr. Glatz if the contract for Saudi Arabia was a State contract. **Mr. Glatz** replied that it had nothing to do with the State of Montana.

REP. CAFERRO asked Don Judge if he could comment on the executive orders and the subject of the Foreign Commerce Clause. **Mr. Judge** said that the governors had been given the option of signing off on foreign trade agreements. When they sign off, it prohibits the State from implementing laws or regulations which would conflict with those treaties.

{Tape: 1; Side: B; Approx. Time Counter: 14 - 25}

REP. CAFERRO asked Marvin Eicholtz why he did not know what the companies with whom he's contracting are doing and who they are employing. **Mr. Eicholtz** answered that was not his job and she was asking him to add on requirements to see if the bill can be implemented. He stated that was additional work and did not see any benefit of it. **REP. CAFERRO** followed up by asking Mr. Eicholtz if he took into consideration the offsetting costs with not having the money going directly into Montana's economy. **Mr. Eicholtz** replied that his company follows the Montana Procurement Act which requires them to go out and get the goods and services at the lowest possible cost.

CHAIRMAN JENT referred to the Sponsor concerning the Governor's power under executive order. He asked if the Governor had the power by executive order to do what the bill wants to do. **SEN. LASLOVICH** did not think so.

Closing by Sponsor:

SENATOR LASLOVICH closed the hearing by saying that the U.S. is the richest country in the world, and the knowledge behind that needs to stay in the country.

{Tape: 1; Side: B; Approx. Time Counter: 25 - 28}

HEARING ON HB 633

Opening Statement by Sponsor:

REP. LARRY JENT (D), HD 64, opened the hearing on HB 633, Increase TRS GABA adjustment. He explained to the Committee two things the bill would provide:

- 1) The bill takes the guaranteed annual benefit adjustment and raises it from the current statutory level of 1.5% - 2% for retired teachers.
- 2) The bill takes the lottery money and sets up a State Teacher's Retirement Fund assistance account.

{Tape: 2; Side: A; Approx. Time Counter: 1 - 11}

Proponents' Testimony:

Tom Altmaier, Montana Retired Educators Association (MREA), urged support of HB 633.

[EXHIBIT\(sth54a03\)](#)

Don Walters, MREA, provided a background of pensions and Guaranteed Annual Benefit Adjustment (GABA) legislation.

[EXHIBIT\(sth54a04\)](#)

Hazel Johnson, MREA, gave her personal story and spoke about the need for affordable health care.

Betty Lou Hoffman, MREA, spoke on the importance of affordable energy costs.

Gary Johnson, MREA, read a statement from Bill Howard, a fellow retired teacher. The letter commented on the importance of "getting by" and putting kids through college. He urged support of the bill.

Charlotte Thomas, MREA, spoke on how the retirement pension affected teacher retention.

Margaret Crennen, AARP, provided written testimony in support of HB 633.

EXHIBIT(sth54a05)

{Tape: 2; Side: A; Approx. Time Counter: 11 -21}

David Senn, Executive Director, Teacher's Retirement System (TRS), said he understood the difficult situation the legislature finds itself in with funding. He hopes the Committee will keep the bill around for consideration.

Tom Bilodeau, MEA-MFT, gave the history on the Public Employee Pension Security Coalition (PEPSCO) and explained the notable shortfall in funding.

Opponents' Testimony:

Amy Sassano, Governor's Budget Office, spoke for the Governor's Office in respectfully opposing HB 633. She said that one of the primary obligations of Governor Schweitzer was to assure the long-term sustainability of government finances, including both the State general fund and the State retirement system. **Ms.**

Sassano went on to explain how the bill was not fiscally sound. She stated that a reduction in ongoing general fund revenue at this level represented a significant reduction in general fund expenditures in other places in the State budget.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. JACOBSON made a reference to Table 3 on the green sheet and believed that under the average monthly benefit, the average retired educator currently makes \$1,283.00. He believed that the average teacher would see approximately a \$25 per month increase to the tune of about \$300 per year. He asked David Senn if that was correct. **David Senn** replied that he had not done the math.

REP. JACOBSON followed up by asking if David Senn would agree that this was an extremely modest increase. **Mr. Senn** agreed.

{Tape: 2; Side: A; Approx. Time Counter: 21 - 30}

REP. BERNIE OLSON asked David Senn to comment on the statement made that actuarial soundness of the current pending legislation would be 71 years. **Mr. Senn** answered that was correct.

REP. BERNIE OLSON asked the Sponsor if it was true that an individual receiving teacher's retirement is also eligible for

Social Security. **REP. JENT** replied that was correct. **REP. OLSON** followed up by asking if Social Security added cost of living adjustments on a regular basis. **REP. JENT** affirmed that was correct.

REP. DICKENSON mentioned that in the past, the educational community had wanted to distance education funding from gambling. She asked Mr. Bilodeau how the education community would feel, if this bill were to pass, to once again see gambling revenue helping with funding. **Mr. Bilodeau** replied that historically the education community has opposed any direct or implied gambling money for public schools and they did have some "heartburn" over the legislation.

REP. DICKENSON asked Amy Sassano if, even with the assistance from lottery revenue, Governor Schweitzer still did not think the bill was one he could support. **Ms. Sassano** replied that although the bill did identify a lottery resource which partially funds the increased benefit, those funds were currently being used for other fees in the State general fund. This bill would be a direct cut to those programs because those funds had already been spent.

REP. DICKENSON followed up by asking if the Governor would reconsider his position if some of the revenue measures currently working through the system were to pass. **Ms. Sassano** replied that she could not speak to that.

REP. ANDERSEN asked the Sponsor to explain the significant local government impact stated on the fiscal note. **REP. JENT** responded that the fiscal note said that 90% of school district retirement costs are paid with accommodation of a countywide ledger and as State-guaranteed tax base. The rest is paid with school district federal funds. The question was referred to **David Senn** who directed **REP. ANDERSEN** to Page 2 on the fiscal note where the numbers were provided. **REP. ANDERSEN** followed up by asking if it was a permissive levy. **Mr. Senn** responded that was correct.

REP. BROWN asked Mr. Senn if it was safe to assume that if the \$2.9 million was taken and divided out among 56 counties, they could come up with an approximate amount for each the county's levy costs to the taxpayers. She asked if there were concentrations of teachers in the "Big 8." **Mr. Senn** replied that was correct.

{Tape: 2; Side: B; Approx. Time Counter: 1 - 15}

REP. BROWN asked the Sponsor how HB 633 could be justified when in fact the TRS is actuarially unsound. **REP. JENT** answered that

HB 633 did not increase the unfunded liability. **REP. BROWN** followed up by asking if, knowing that once a benefit is given, it could never be taken away, what that would mean for the TRS. **REP. JENT** replied that meant if the bill is passed there will be a two 2% GAVA.

Closing by Sponsor:

The Sponsor closed.

EXECUTIVE ACTION ON SB 24

Motion: **REP. BROWN** moved that SB 24 BE CONCURRED IN.

Discussion:

REP. JONES felt like the changes in Sections 34-36 of the bill were affecting the intent of the original legislation.

REP. OLSON read the opening of Section 37 and felt that "sailboat" was inadvertently left out of the other sections when it should have been included.

{Tape: 2; Side: B; Approx. Time Counter: 15 - 29}

Sheri Heffelfinger, Legislative Branch, stated that the code commissioner was apologetic that he could not make it to the hearing, but she could take questions for him.

REP. JONES referred the Committee to Section 26 on Page 40 where the number of trustees was changed. He asked Sheri Heffelfinger about that. **Ms. Heffelfinger** replied that the High School Boundary Commission did not exist anymore.

Vote: Motion carried 16-0 by voice vote with **REP. SMALL-EASTMAN** voting aye by proxy.

Without objection, the Committee agreed to place SB 24 on the consent calendar.

REPRESENTATIVE JENT will carry the bill

EXECUTIVE ACTION ON SB 98

Motion: REP. BROWN moved that SB 98 BE CONCURRED IN.

Discussion:

REP. BROWN presented additional information on the duties of the department manager discussed in the bill.

{Tape: 3; Side: A; Approx. Time Counter: 1 - 19}

REP. MACLAREN requested information on integrating the system with the counties.

REP. BROWN answered the question by saying that many of the counties have people assigned to the job. When that is not the case, the State steps in and assists them. Following a need for clarification, REP. BROWN stated that it was a State system that the counties were insisting on.

REP. JONES explained that a person can easily end up off course just by not having the right data.

REP. HENRY referred REP. MACLAREN to a letter which had been handed out during the hearing for SB 98 that made it sound like they supported the idea of partnerships.

REP. BROWN believed that there was a coordinating board or some kind of GIS group that met.

Vote: Motion carried 16-0 by voice vote with REP. SMALL-EASTMAN voting by proxy.

REPRESENTATIVE SESSO will carry SB 98.

EXECUTIVE ACTION ON SB 180

Motion: REP. BROWN moved that SB 180 BE CONCURRED IN.

Motion: REP. HENDRICK moved that SB 180 BE AMENDED.

Discussion:

Sheri Heffelfinger explained the amendment.

REP. MALCOLM questioned why the audit information needed to be in the bill.

REP. JACOBSON said that while the bill indicated compliance with OMB circular A-7 for the amendment, he suspected that the legislative auditors would do that.

REP. BROWN believed that if an agency was supposed to be doing something under statute, that was exactly what the audit agency looked for.

REP. JACOBSON mentioned that in SENATOR COONEY'S presentation of the bill, the legislative auditor had requested that the language be inserted.

REP. JONES remembered that the auditing agency had said that the reasoning for this was that different groups were not following through and they were expecting that different groups would not pay their dues.

REP. JENT thought that the Sponsor presented the amendment because he thought it to be legally necessary.

REP. BROWN stated her support of the amendment.

REP. BERNIE OLSON asked **REP. BROWN** if they would do an audit if someone wasn't paying their dues. **REP. BROWN** replied that the audits are only done every other year and she thought that if this legislation was put into statute, people would pay more attention to it.

REP. JACOBSON added that typically, when the legislative auditor presents a performance or a financial audit and they find deficiencies, there are recommendations for corrections. A follow up is also usually requested.

REP. BROWN stated that not all departments agree with the auditor's findings and sometimes in follow-up audits, they are still not complying.

REP. DICKENSON asked if it was the executive who had to go in and make the changes.

REP. JENT said that it was.

Vote: Motion carried 15-1 by voice vote with **REP. MALCOLM** voting no. **REP. SMALL-EASTMAN** voted by proxy.

Motion: **REP. BROWN** moved that SB 180 BE CONCURRED IN AS AMENDED.

Discussion:

REP. BERNIE OLSON thought it was an important process that often gets overlooked and he would support the bill.

REP. ALAN OLSON asked if the problem was that too much paper was being saved.

REP. ANDERSEN said that the people who are trained in that area will be the ones making the decision on what to keep.

REP. JACOBSON reminded everyone about Page 13 of the handout that said if the additional archivists are added, the volume of storage material could be reduced by almost 50%.

REP. BROWN remarked that in the reduction, storage space would be saved as well as rent money.

{Tape: 3; Side: A; Approx. Time Counter: 19 - 25}

Vote: Motion carried 16-0 by voice vote with REP. SMALL-EASTMAN voting by proxy.

REPRESENTATIVE BERNIE OLSON will sponsor SB 180.

ADJOURNMENT

Adjournment: 10:30 A.M.

REP. LARRY JENT, Chairman

LINDSEY GROVOM, Transcriptionist

LJ/mm

Additional Exhibits:

EXHIBIT ([sth54aad0.TIF](#))